

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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JUAN CURIEL-SALAZAR

ORDER

Petitioner,

Cr. No. 2:05-0164 WBS

v.

Civ. No. 2:06-1159 WBS

UNITED STATES OF AMERICA,

Respondents.

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Defendant Juan Curiel-Salazar has filed a petition for relief pursuant to 28 U.S.C. § 2255, in which he contends that his court appointed counsel, Federal Defender Daniel J. Broderick, failed to file notice of appeal on his behalf as directed by defendant. The United States Attorney shall file a response to the Motion on or before June 30, 2006.

The court notes that in his written plea agreement filed June 15, 2005, defendant waived his rights to appeal any aspect of his conviction or sentence, and also gave up any right to bring any post-conviction attack on any aspect of his conviction or sentence. Without some further explanation by the defendant, these waivers would seem to preclude not only the

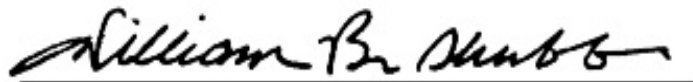
1 instant petition but the appeal which he contends his lawyer
2 should have perfected as well. In addressing this issue, the
3 United States Attorney is requested to lodge a transcript of the
4 proceedings at the time defendant's plea was taken on June 15,
5 2005, so that the court can determine whether defendant was
6 properly advised by the court of the terms of the waiver of his
7 appeal and collateral attack rights pursuant to Rule 11(b) (N).

8 The United States Attorney is also requested as part
9 of the government's response to provide the court with an
10 affidavit of Federal Defender Broderick setting forth whether
11 defendant's allegations that he requested Mr. Broderick to file
12 notice of appeal but that Mr. Broderick did not do so are true.

13 Defendant shall file his reply, if any, on or before
14 July 14, 2006. The matter will then be taken under submission.

15 IT IS SO ORDERED.

16 DATED: May 31, 2006

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18 WILLIAM B. SHUBB
19 UNITED STATES DISTRICT JUDGE
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